

## United States District Court

JUN 05 2006 ★

FOR EASTERN

DISTRICT OF

NEW YORK

LENNY ABREU

BROOKLYN OFFICE

BILL OF COSTS

V.

Case Number: 04cv1721 (JBW)

THE CITY OF NEW YORK, DET. DANIEL TORO,  
 individually and in his Official Capacity SHIELD  
 No 3664 P.O.s "JOHN DOE" #1-10 individually and

Judgment having been entered in the above entitled action on 02/28/2006 against LENNY ABREU  
 Date

the Clerk is requested to tax the following as costs:

Fees of the Clerk .....	\$ .....
Fees for service of summons and subpoena .....	.....
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case .....	\$820.06
Fees and disbursements for printing .....	\$110.40
Fees for witnesses (itemize on reverse side) .....	.....
Fees for exemplification and copies of papers necessarily obtained for use in the case .....	.....
Docket fees under 28 U.S.C. 1923 .....	.....
Costs as shown on Mandate of Court of Appeals .....	.....
Compensation of court-appointed experts .....	.....
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828 .....	.....
Other costs (please itemize) .....	E.B.T. \$521.10
TOTAL \$ .....	1,451.56

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

## DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to: Jon L. Norinsberg, Esq. 225 Broadway, Suite 2700, NY, NY 10007

Signature of Attorney:

*Hillary A. Frommer*

Name of Attorney: Hillary A. Frommer (HF 9286), Assistant Corporation CounselFor: The City of New YorkDate: 03/10/2006

Name of Claiming Party

Costs are taxed in the amount of \$1,451.56 *in favor of defendant*, and included in the judgment.

Clerk of Court

By:

Deputy Clerk

*June 2, 2006*  
 Date

*No opposition to taxation having been filed,*

**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:

I, Valery Dekhman being duly sworn, deposes and says that on March 13, 2006, I served copies of the Bill of Costs, Notice of Application for Costs South Against Plaintiff, 4 Invoices (## 0885, 5-1428, 5-2327, 27482), the Judgment upon Jon L. Norinsberg, Esq., the attorney for Plaintiff Lenny Abreu, by depositing copies of same, enclosed in a postpaid properly addressed envelope, in a post office box/official depository under exclusive care and custody of the United States Postal Service, located at 100 Church Street, New York, New York 10007, directed to said attorney, Jon L. Norinsberg at 225 Broadway, Suite 2700, NY, NY 10007.

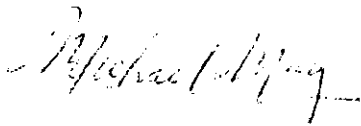
  
VALERY DEKHMANN

Sworn to before me this

13<sup>th</sup> day of March 13, 2006

\_\_\_\_\_  
NOTARY PUBLIC

ARMANDO J. MAY  
Notary Public, State of New York  
No. 20060000000000000000  
Queens County  
Commission Expires March 30, 2010



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**LENNY ABREU,**

Plaintiff,

-against-

**THE CITY OF NEW YORK, DET. DANIEL TORO,  
Shield No. 3664, Individually and in his Official Capacity,  
P.O.s "JOHN DOE" #1-10 Individually and in their  
Official Capacities ( the name John Doe being fictitious as  
the true names are presently unknown),**

Defendant(s).

Ind. No. 04 Civ. 1721(JBW)

**NOTICE OF APPLICATION  
FOR COSTS SOUGHT AGAINST  
PLAINTIFF  
LENNY ABREU**

PLEASE TAKE NOTICE that, upon defendants' bill of costs, the declaration of Hillary Frommer, dated March 10, 2006, and the exhibit annexed thereto, and all other pleadings and proceedings herein, defendants will move this Court before the Judgment Clerk, at the United States Courthouse, for the Eastern District of New York, located at 225 Cadman Plaza East, Brooklyn, NY at 10 a.m. on March 28, 2006, or as soon thereafter as counsel may be heard for an order pursuant to Rule 54 of the Federal Rules of Civil Procedure and 28 U.S.C. 1921 granting fees and costs sought by defendants and granting such relief as to this Court deems proper.

Dated: New York, New York  
March 10, 2006

**MICHAEL A. CARDOZO**

Corporation Counsel of the City of New York  
Attorney for Defendant  
100 Church Street New York, NY 10007  
(212) 788-0823

By: 

Hillary A. Frommer (HF 9286)  
Assistant Corporation Counsel

✓ To: Jon L. Norinsberg  
Attorney at Law  
225 Broadway, Suite 2700,  
New York, NY 10007

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

LENNY ABREU,

Plaintiff,

v.

THE CITY OF NEW YORK,  
DET. DANIEL TORO, Shield No. 3664,  
Individually and in his Official Capacity,  
P.O.s "JOHN DOE" #1-10 Individually  
and in their Official Capacities (the  
name John Doe being fictitious as the  
true names are presently unknown),  
Defendants.

**Appearances:**

**For Plaintiff:**

Jon L. Norinsberg  
New York, New York

**For Defendants:**

Corporation Counsel for the City of New York  
Law Department  
New York, New York  
By: Hillary A. Frommer

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ FEB 27 2006 ★

BROOKLYN OFFICE

No. 04-CV-1721 (JBW)

MEMORANDUM, ORDER  
AND JUDGMENT

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investigations of a robbery. There is no allegation of physical abuse. Plaintiff can produce no motive for the alleged fabrication. The victim identified plaintiff by name as his assailant and later identified him in both a photo array and a lineup. The grand jury properly returned an indictment. After a full and fair trial, plaintiff was acquitted on all charges. On the record before the court, the motion must be granted.

The allegation that an officer has fabricated evidence is serious. That plaintiff spent an extended period in jail for a crime of which he has been acquitted is troubling; it is not unusual. *See* Bureau of Justice Statistics, *Compendium of Federal Justice Statistics* 54 (2003) (average period of pretrial detention for robbery suspects who could not afford to make bond was 165.5 days). Bail is sometimes properly set high, or denied, for those who pose a serious risk of flight or threat to the community. Even modest bail may prevent many defendants from securing their release pending trial. *See* Vera Institute of Justice, *Foreword, Bail Bond Supervision in Three Counties* (1995) ("[P]ersonal wealth determined whether someone detained on a relatively low bail amount would be held in jail until their case ended or would be able to post bail and remain free."). Absent proof of official misconduct, lengthy pre-trial detention not deliberately caused by acts of a police officer does not provide a basis for relief under Section 1983.

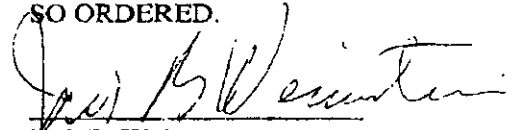
### **III. Conclusion**

The motion for summary judgment by Detective Daniel Toro is granted. Claims against the City are withdrawn. Plaintiff has not pressed his claims against the unnamed officers; the

motion for summary judgment on all claims against them is granted.

The case is dismissed. Costs and fees are granted to Daniel Toro.

SO ORDERED.

  
Jack B. Weinstein

Dated: February 22, 2006  
Brooklyn, New York

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ FEB 28 2006 ★

BROOKLYN OFFICE

*Judgment is hereby  
entered.*

*Dated: Brooklyn, New York  
February 28, 2006*

ROBERT C. HEINEMANN  
CLERK OF COURT

CLOSED


**U.S. District Court  
Eastern District of New York (Brooklyn)  
CIVIL DOCKET FOR CASE #: 1:04-cv-01721-JBW-VVP  
Internal Use Only**

Abreu v. City Of New York et al  
Assigned to: Senior-Judge Jack B. Weinstein  
Referred to: Magistrate-Judge Viktor V. Pohorelsky  
Cause: 42:1983 Civil Rights Act

Date Filed: 04/27/2004  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****Lenny Abreu**

represented by **Jon L. Norinsberg**  
Law Office of Jon L. Norinsberg  
225 Broadway, Suite 2700  
New York, NY 10007  
212-791-5396  
Fax: 212-406-6890  
Email: norinsberg@aol.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**



V.

**Defendant****City Of New York**

represented by **Hillary A. Frommer**  
Corporation Counsel for the City of  
New York  
Law Department  
100 Church Street  
New York, NY 10007  
212-788-0823  
Fax: 212- 788-9776  
Email: hfrommer@law.nyc.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****Det. Daniel Toro**

*Shield No. 3664, individually and in his  
official capacity*

represented by **Hillary A. Frommer**  
Corporation Counsel for the City of  
New York  
100 Church Street  
New York, NY 10007  
212-788-0823  
Fax: 212- 788-9776  
Email: hfrommer@law.nyc.gov  
**ATTORNEY TO BE NOTICED**

**Defendant****John Doe # 1-10**

*P.O.'s Individually and in their official capacities. The name John Doe being fictitious as the true names are presently unknown*

Date Filed	#	Docket Text
04/27/2004	<a href="#"><u>1</u></a>	COMPLAINT Summons Issued against City Of New York, John Doe # 1-10, Daniel Toro filing fee \$ 150, receipt number 293222, filed by Lenny Abreu. (Attachments: # <a href="#"><u>1</u></a> Civil Cover Sheet)(Joe, Victor) (Entered: 05/03/2004)
05/06/2004	<a href="#"><u>3</u></a>	AFFIDAVIT of Service, by deponent Howard Hertzfeld, for Summons and Complaint, & Notice served on Det. Daniel Toro, on 4/29/2004. (w/attachments) (Barrett, Charryse) (Entered: 06/01/2004)
05/06/2004	<a href="#"><u>4</u></a>	AFFIDAVIT of Service, by deponent Anthony L. Jones, for summons and complaint, notice of intention to file a claim served on The City of New York, on 4/28/2004. (w/attachments) (Barrett, Charryse) (Entered: 06/01/2004)
05/06/2004	<a href="#"><u>5</u></a>	AFFIDAVIT of Service, by deponent Howard Hertzfeld, for summons and complaint, & notice served on The City of New York, on 4/28/2004. (w/attachments) (Barrett, Charryse) (Entered: 06/01/2004)
05/20/2004	<a href="#"><u>2</u></a>	ORDER: Deft City is granted an extension of time, from 5/20/2004 to 7/19/2004, to answer the complaint. Signed by Judge Viktor V. Pohorelsky, undated. (Endorsed on letter dated 5/18/2004 from Hillary A. Frommer to USMJ Pohorelsky) (Barrett, Charryse) (Entered: 05/20/2004)
07/16/2004	<a href="#"><u>6</u></a>	ANSWER to Complaint by City Of New York, Daniel Toro.(Frommer, Hillary) (Entered: 07/16/2004)
09/16/2004	<a href="#"><u>7</u></a>	ORDER: an initial conference will be held in this case on 10/21/2004 @ 9:30 a.m. before the undersigned. Signed by Judge Viktor V. Pohorelsky, on 9/10/2004. (Barrett, C.) (Entered: 09/16/2004)
10/21/2004	<a href="#"><u>8</u></a>	Minute Entry for proceedings held before Viktor V. Pohorelsky : Initial Conference Hearing held on 10/21/2004. Scheduling Order (annexed) entered. (Newton, Joan) (Entered: 10/21/2004)
02/18/2005	<a href="#"><u>9</u></a>	Minute Entry for proceedings held before Judge Viktor V. Pohorelsky : Telephone Status Conference held on 2/18/2005. See annexed conference calendar for details. (Newton, Joan) (Entered: 02/18/2005)
07/11/2005	<a href="#"><u>10</u></a>	Letter from Hillary A. Frommer to The Honorable Viktor V. Pohorelsky Regarding Request for Adjournment of July 29, 2005 Conference. (Frommer, Hillary) (Entered: 07/11/2005)
07/12/2005	<a href="#"><u>11</u></a>	Set/Reset Conference: The conference scheduled for 7/29/05 at 9:30 a.m.

		before Magistrate Judge Pohorelsky has been adjourned to 8/5/05 a 10:30 a.m. So Ordered by Judge Pohorelsky on 7/12/05. (Newton, Joan) (Entered: 07/12/2005)
08/05/2005	● <u>11</u>	Minute Entry for proceedings held before Magistrate Judge Viktor V. Pohorelsky : Interim Pretrial Conference held on 8/5/2005. See annexed conference calendar for details. (Newton, Joan) (Entered: 08/05/2005)
10/11/2005	● <u>12</u>	Letter from Hillary A. Frommer to The Honorable Viktor V. Pohorelsky Regarding Defendants' Request for Extension of Time to File Motion for Summary Judgment. (Frommer, Hillary) (Entered: 10/11/2005)
10/13/2005	●	ORDER re <u>12</u> Letter, by electronic endorsement: Application granted. The deadline for filing summary judgment motions is extended to October 24, 2005. Ordered by Judge Viktor V. Pohorelsky on 10/13/2005. (Pohorelsky, Viktor) (Entered: 10/13/2005)
10/20/2005	● <u>13</u>	Minute Entry for proceedings held before Magistrate Judge Viktor V. Pohorelsky : Telephone Conference held on 10/20/2005. See annexed conference calendar for details. (Newton, Joan) (Entered: 10/20/2005)
11/29/2005	● <u>14</u>	First MOTION for Extension of Time to File Response/Reply <i>Letter from Jon L. Norinsberg to The Honorable Viktor V. Pohorelsky Regarding Plaintiff's Request for Extension of Time to Respond to Defendants' Motion For Summary Judgment.</i> by Lenny Abreu. (Norinsberg, Jon) (Entered: 11/29/2005)
12/12/2005	●	ORDER granting <u>14</u> Motion for Extension of Time to File Response to defendants' motion for summary judgment. Plaintiff's response due by 12/29/2005; reply due by 1/31/2005. Ordered by Judge Viktor V. Pohorelsky on 12/12/2005. (Pohorelsky, Viktor) (Entered: 12/12/2005)
12/30/2005	● <u>15</u>	RESPONSE in Opposition re <u>14</u> First MOTION for Extension of Time to File Response/Reply <i>Letter from Jon L. Norinsberg to The Honorable Viktor V. Pohorelsky Regarding Plaintiff's Request for Extension of Time to Respond to Defendants' Motion For Summary Judgment.</i> Plaintiff's Response to Defendant's Motion for Summary Judgment filed by Lenny Abreu. (Norinsberg, Jon) (Entered: 12/30/2005)
12/30/2005	● <u>16</u>	MOTION for Summary Judgment by City Of New York, Daniel Toro. Responses due by 12/29/2005 (Frommer, Hillary) (Entered: 12/30/2005)
12/30/2005	● <u>17</u>	RULE 56.1 STATEMENT re <u>16</u> MOTION for Summary Judgment by City Of New York, Daniel Toro. (Frommer, Hillary) (Entered: 12/30/2005)
12/30/2005	● <u>18</u>	AFFIDAVIT in Support re <u>16</u> MOTION for Summary Judgment filed by City Of New York, Daniel Toro. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D & E# <u>5</u> Exhibit F# <u>6</u> Exhibit G# <u>7</u> Exhibit H & I# <u>8</u> Exhibit J# <u>9</u> Exhibit K# <u>10</u> Exhibit L# <u>11</u> Exhibit M# <u>12</u> Exhibit N# <u>13</u> Exhibit O# <u>14</u> Exhibit P# <u>15</u> Exhibit Q & R# <u>16</u> Exhibit S# <u>17</u> Exhibit T# <u>18</u> Exhibit U# <u>19</u> Exhibit V)(Frommer, Hillary) (Entered: 12/30/2005)

12/30/2005	● <u>19</u>	MEMORANDUM in Support re <u>16</u> MOTION for Summary Judgment by City Of New York, Daniel Toro. (Frommer, Hillary) (Entered: 12/30/2005)
01/31/2006	● <u>20</u>	AFFIDAVIT in Support re <u>16</u> MOTION for Summary Judgment by <i>Hillary A. Frommer</i> filed by City Of New York, Daniel Toro. (Attachments: # <u>1</u> Exhibit W# <u>2</u> Exhibit X# <u>3</u> Exhibit Y# <u>4</u> Exhibit Y continued# <u>5</u> Exhibit Z)(Frommer, Hillary) (Entered: 01/31/2006)
01/31/2006	● <u>21</u>	REPLY in Support re <u>16</u> MOTION for Summary Judgment <i>Memorandum of Law</i> by City Of New York, Daniel Toro. (Frommer, Hillary) (Entered: 01/31/2006)
02/08/2006	● <u>22</u>	Minute Entry for proceedings held before Jack B. Weinstein : Motion Hearing held on 2/8/2006 re: <u>16</u> MOTION for Summary Judgment filed by City Of New York,, Daniel Toro. Motion argued. Decision reserved. (Barrett, C.) (Entered: 02/09/2006)
02/21/2006	<u>23</u>	Miscellaneous Civil Document Memo. dtd. 10/20/05 Discovery closed. Settlement discussions were fruitless. (Jackson, Ramona) (Entered: 02/21/2006)
02/27/2006	● <u>24</u>	MEMORANDUM, ORDER, and JUDGMENT: the motion for summary judgment by Detective Daniel Toro is granted. Claims against the City are withdrawn. Pltff has not pressed his claims against the unnamed officers; the motion for summary judgment on all claims are granted to Daniel Toro. Ordered by Judge Jack B. Weinstein, on 2/22/2006. Copies mailed by Chambers. (Judgment requested)(Barrett, C.) (Entered: 02/27/2006)
02/28/2006	● <u>25</u>	CLERK'S JUDGMENT: Judgment is hereby entered. Ordered by Clerk of Court, on 2/28/2006. Copies mailed with appeals packet.(Barrett, C.) (Entered: 02/28/2006)
03/02/2006	● <u>26</u>	TRANSCRIPT of Motion held on 2/8/2006 before Judge Weinstein. Court Reporter: Anthony D. Frisolone. (Barrett, C.) (Entered: 03/02/2006)
03/24/2006	● <u>27</u>	MOTION for Bill of Costs , w/ <i>attached exhibit A (filed in hard copy)</i> , by City Of New York. (Attachments: # <u>1</u> Proposed Bill of Costs)(Barrett, C.) (Entered: 03/24/2006)